

### **REMARKS/ARGUMENTS**

This Amendment is submitted in response to the non-final Office Action dated May 1, 2009.

#### **I. Introduction**

Claims 7-12 are pending in the application.

Claims 7-11 stand rejected under 35 U.S.C. 101 as being non-statutory. Claims 7, 9, and 11 have been amended to more clearly contain statutory subject matter.

Claims 7-8 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,787,075 to Uchida (hereinafter "the Uchida patent"), in view of U.S. Patent No. 5,905,792 to Miloslavsky (hereinafter "the Miloslavsky patent").

Claims 9-11 stand objected to as being dependent on a rejected base claim, but would be patentable if re-written in independent form. Claims 9 and 11 have been so amended.

As will be discussed below, all of the claims, as amended, are definite and none of the pending claims, as amended, are anticipated or rendered obvious by the applied references.

#### **II. The §101 Second Paragraph Rejections have been Overcome**

Claims 7-11 stand rejected under 35 U.S.C. 101 as being non-statutory. Claims 7 and 11 have been amended to explicitly recite "operating circuitry to select ...". Support for the amendment can be found in Figure 5 and the corresponding description of the application including page 23. Applicant respectfully submits that "a service control point" such as the type shown in Figure 2, is an apparatus. Applicants have amended claim 9 to recite "said service control point being coupled to said telephone switch". The amendment makes it clear that the service control point is something physical by indicating that it is coupled to the telephone switch which is also a physical apparatus. Support for the amendment to claim 9 can be found in Figure 2 and elsewhere in the specification.

As amended, claims 7, 9, and 11 are now tied to the apparatus category of patentable subject matter in addition to the method category. Accordingly, the rejection of the claims under §101 should be withdrawn.

### III. Claims 7-8 and 12 are Patentable

Claims 7-8 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the Uchida patent, in view of the Miloslavsky patent.

Claim 7, as amended, is patentable because, among other things, it recites the features indicated below (emphasis added):

*operating circuitry to select a method for implementing the automatic route selection service for the service subscriber, from a plurality of different implementation methods, as a function of type of telephone switch which serves as an end office switch for said service subscriber, a first one of the plurality of different implementation methods using a switch based automatic route selection table, a second one of the plurality of different implementation methods using a non-switch based automatic route selection table; and*

*incorporating automatic route selection information used to implement the selected automatic route selection method into a call processing record accessible by a service control point*

The Examiner acknowledges on p. 3 of the Office Action that the Uchida patent does not teach "implementing the automatic route selection service for the service subscriber using a non-switch based automatic route selection table" or "incorporating automatic route selection information used to implement the selected automatic route selection method into call processing record accessible by a service control point". This is primarily due to the fact that the Uchida patent discloses a **data network**, which is entirely switch-based.

The Examiner goes on to state that:

"Miloslavsky teaches implementing route selection for the service subscriber using a non-switch based automatic route selection table (col. 6, lines 24-27; col. 11, lines 14-24; col. 13, lines 49-53) using a service control point (SCP 101) from plurality of different routing methods (col. 2, lines 14-16 - *routing done at SCP and further routing accomplished at call centers or PBX/switch*)."

There are several problems with this analysis. First, the Miloslavsky patent does not disclose "a switch based automatic route selection table". Therefore, the Miloslavsky patent does not "select" from a "plurality of different implementation methods" wherein "a first one" uses a "switch based automatic route selection table", and "a second one" uses "a non-switch based automatic route selection table".

The Examiner is evidently suggesting that by combining the two references, the combination would include both "switch based" and "non-switch based" tables. While this may be true, **neither reference selects from any "plurality of different implementation methods"**.

The Uchida patent utilizes (emphasis added):

"an automatic routing selection switch connected to the plural subscriber's circuits, the automatic routing selection switch receiving a fixed length cell formed of a logic channel information portion and a data portion and **selecting automatically an output route for the fixed-length cell, based on information in the logic channel information portion**".

There is no "plurality" of "different implementation methods", and certainly no "selecting" from such a "plurality". The Uchida patent utilizes the "automatic routing selection switch", which operates "based on information in the logic channel information portion" (col. 5, lines 54-60).

The Miloslavsky patent routes calls at the SCP "to the group which has the lowest projected handling time for the call" (col. 13, lines 57-58). For calls arriving at a processor system, "the processor system routes the incoming call to a selected remote telephone station based on pre-stored information about busy status of remote telephone stations" (col. 3, lines 58-61). Neither the SCP nor the processing system "[select] a method for implementing the automatic route selection service for the service subscriber, from a plurality of different implementation methods". The SCP routes according to "projected handling time" and the processor system routes calls according to "busy status of remote telephone stations", and therefore neither has different automatic routing methods to choose from, nor does either "choose" from "a plurality of different implementation methods".

Additionally, neither the Uchida patent nor the Miloslavsky patent perform **any operation** "as a function of type of telephone switch which serves as an end office switch for said service subscriber". Neither reference even discusses the "type of telephone switch

which serves as an end office switch for said service subscriber". Certainly, neither reference teaches or suggests "to select a method for implementing the automatic route selection service for the service subscriber, from a plurality of different implementation methods, as a function of type of telephone switch which serves as an end office switch for said service subscriber".

Finally, the Examiner goes on to state that:

"Miloslavsky does not explicitly implement the selected automatic route selection method into call processing record. However, Miloslavsky teaches processor system routes incoming calls based on pre-stored information of telephone stations and forwards the data packet over digital communication link (col. 3, lines 58-62)."

Applicant doesn't understand what either "routes incoming calls based on pre-stored information of telephone stations" or "forwards the data packet over digital communication link" has to do with:

*incorporating automatic route selection information used to implement the selected automatic route selection method into a call processing record accessible by a service control point*

The Examiner then states:

"It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Miloslavsky into the teachings of Uchida for the purpose of having a more efficient system by routing calls being done on several levels, for example, pre-routing at SCP and further routing being accomplished at call center."

First, there is nothing obvious about combining the Uchida patent with the Miloslavsky patent for **any** purpose. The Uchida patent is an SMDS data network implementation, and the Miloslavsky patent is a system and method for routing voice calls to calling centers. **Neither** "[selects] a method for implementing the automatic route selection service for the service subscriber, from a plurality of different implementation methods, as a function of type of telephone switch which serves as an end office switch for said service subscriber]", nor even "[selects] a method for implementing the automatic

route selection service" for any purpose, so clearly no combination of the references would or could do so.

Further, the "more efficient system" of the Miloslavsky patent **does** involve "pre-routing at SCP", but **does not** involve "to select a method for implementing the automatic route selection service for the service subscriber". Therefore, one with ordinary skill would not think to incorporate "to select a method for implementing the automatic route selection service for the service subscriber" to make the system "more efficient", nor would one know how to do so even if one were so motivated. Finally, it is unclear what the resultant system would look like, how it would operate, or what it would accomplish, if either the Uchida patent or the Miloslavsky patent incorporated "to select a method for implementing the automatic route selection service for the service subscriber" into either reference or some combination of the two.

For at least the above reasons, **claim 7, as amended, is patentable over any combination of the cited references.**

For at least the reason that it depends from patentable claim 7, **claim 8 is patentable over any combination of the cited references.**

Claim 12 is patentable because, among other things, it recites the features indicated below (emphasis added):

*a service control point coupled to said telephone switch, the service control point including control logic used to access a non-switch based automatic route selection table as part of a service control point based automatic route selection service provided to said service subscriber, the service control point further comprising:*

*means for selecting a method for implementing the automatic route selection service for the service subscriber, from a plurality of different implementation methods, as a function of type of telephone switch which serves as an end office switch for said service subscriber, a first one of the plurality of different implementation methods using a switch based automatic route selection table, a second one of the plurality of different implementation methods using a non-switch based automatic route selection table.*

For the reasons argued above in relation to claim 7, **claim 12 is patentable over the cited references.**

**IV. Claims 9-11 are Patentable**

Claims 9-11 stand objected to as being dependent on a rejected base claim, but would be patentable if re-written in independent form and to overcome the §101 rejections. Claims 9 and 11 have been re-written in independent form and have been amended to address the §101 rejections. Accordingly, claims 9-11 are now in condition for allowance. Applicant thanks the Examiner for this finding of allowability.

**V. Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that the pending claims are in condition for allowance.<sup>1</sup> Accordingly, it is requested that the Examiner pass this application to issue.

To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136 is hereby made and any required fee in regard to the extension or this amendment is authorized to be charged to the deposit account of Straub & Pokotylo, deposit account number 50-1049.

Respectfully submitted,

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<sup>[1]</sup> As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, ability to combine references, assertions as to patentability of dependent claims) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.